

## **REMARKS**

### **I. PRELIMINARY REMARKS**

Claims 24, 45 and 65 have been amended. No claims have been canceled. Claims 69-75 have been added. Claims 20, 21, 24, 43-48, 50-54, 65, 66 and 68-75 remain in the application. Reexamination and reconsideration of the application, as amended, are respectfully requested.

The Office Action indicated that claims 47, 48, 50-54 and 68 have been allowed and that claims 45 and 46 are directed to patentable subject matter. As claim 45 has been rewritten in independent form, applicant respectfully submits that claims 45 and 46 are also in condition for allowance.

In response to the Examiner's request, formal drawings are being filed concurrently with this Amendment.

With respect to the reasons for allowance presented on page 7 of the Office Action, applicant notes for the record that such statements are "not intended to necessarily state all the reasons for allowance or all the details why claims are allowed." [MPEP 1302.14.] Additionally, the inventions claimed in the present application respectively comprise various elements in combination. Applicant respectfully submits that the patentability of each invention derives from the claimed combination of elements defining that invention, viewed as a whole, rather than from the presence of any particular element (or elements) in the combination.

### **II. REJECTION UNDER 35 U.S.C. § 102**

#### **A. The Rejection**

Claims 24, 43, 44, 65 and 66 have been rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 4,934,340 to Ebling patent ("the Ebling '340 patent"). The

rejection under 35 U.S.C. § 102 is respectfully traversed with respect to the claims as amended above. Reconsideration thereof is respectfully requested.

## **B. The Ebling '340 Patent**

Referring to Figures 4 and 5, the Ebling '340 patent discloses an angioscope including a flexible body 10a with a distal portion 12a, and a bending assembly within the distal portion 12a. The bending assembly includes a contractile wire 20a, a bendable support member 22a, and a connecting member 24a that connects the bendable support member 22a to contractile wire 20a.

## **C. Discussion Concerning Claims 24, 43, 44 and 66**

Independent claim 24 calls for a combination of elements including, *inter alia*, “a steering wire,” “an anchoring member ... secured to the steering wire,” “a stiffening member ... the distal end of the stiffening member being directly secured to the anchoring member” and “an anti-tear device **secured to the proximal end of the stiffening member.**” The respective combinations defined by claims 43, 44 and 66 include, *inter alia*, the elements recited in independent claim 24.

The Ebling '340 patent fails to teach or suggest the claimed combinations. For example, the Office Action has taken the position that the bendable support member 22a corresponds to the claimed “stiffening member” and that the single connecting member 24a illustrated in Figure 5 corresponds to the claimed “anchoring member.” The Office Action has also taken the position that the bending assembly includes at least two connecting members 24a in addition to the single connecting member actually illustrated in Figure 5, and that the two additional connecting members 24a correspond to the claimed “anti-tear device.” Even assuming *arguendo* that this is a reasonable interpretation of the Ebling '340 patent, the Ebling '340 patent **does not indicate that the additional contracting members 24a are secured to the proximal end of the support member**

**22a.** To the contrary, the Ebling '340 patent merely indicates, in the context of the bending assembly illustrated in Figure 2, that:

One or more connecting members 24 serve to physically connect the bendable support member 22 to the contractile wire 20 so as to form a unitary "bending assembly" or structure within the distal portion of the catheter. In the preferred embodiment shown, the connecting member 22 comprises a wire ring or loop. The wire loop is welded or otherwise attached, on opposite sides thereof, to the contractile wire 20 and the bendable support member 22, thereby forming the unitary bending assembly of the present invention.

[Column 4, lines 1-10.]

As the Ebling '340 patent fails to teach or suggest each and every element of the combination recited in independent claim 24, applicant respectfully submits that claims 24, 43, 44 and 66 are patentable thereover and that the rejection under 35 U.S.C. § 102 should be withdrawn.

#### **D. Discussion Concerning Claim 65**

Independent claim 65 calls for a combination of elements including, *inter alia*, "a steering wire" and "an anti-tear device." Claim 65 also indicates that "the steering wire is not directly connected to the anti-tear device."

The Ebling '340 patent fails to teach or suggest the claimed combinations. For example, the Office Action has taken the position that the Ebling bending assembly includes at least two connecting members 24a in addition to the single connecting member actually illustrated in Figure 5, and that the two additional connecting members correspond to the claimed "anti-tear device." Even assuming *arguendo* that this is a reasonable interpretation of the Ebling '340 patent, the Ebling connecting members 24a are directly connected to the purported "steering wire" (i.e. the contractile wire 20a ).

As the Ebling '340 patent fails to teach or suggest each and every element of the combination recited in independent claim 65, applicant respectfully submits that claim 65 is patentable thereover and that the rejection under 35 U.S.C. § 102 should be withdrawn.

### **III. REJECTION UNDER 35 U.S.C. § 103**

#### **A. The Rejection**

Claims 20 and 21 have been rejected under 35 U.S.C. § 103 as being unpatentable over the combined teachings of the Ebling '340 patent and U.S. Patent No. 5,507,725 to Savage ("the Savage '725 patent"). The rejection under 35 U.S.C. § 103 is respectfully traversed with respect to the claims as amended above. Reconsideration thereof is respectfully requested.

#### **B. The Cited References**

Referring to Figures 4 and 5, the Ebling '340 patent discloses an angioscope including a flexible body 10a with a distal portion 12a, and a bending assembly within the distal portion 12a. The bending assembly includes a contractile wire 20a, a bendable support member 22a, and a connecting member 24a that connects the bendable support member 22a to contractile wire 20a. The contractile wire 20a bends when current passes therethrough.

The Savage '725 patent discloses a steerable catheter include a catheter body 12, a handle 16, a tip 18 (in some embodiments), anchoring rings 22 within the catheter body 12, and steering wires 24a-b. The proximal ends of the steering wires 24a-b are connected to an actuator within the handle 16, while the distal ends of the steering wires 24a-b are connected to a single device, i.e. one of the anchoring rings 22. [Note column 6, lines 20-22 and 50-61.]

#### **C. Discussion Concerning Claims 20 and 21**

Independent claim 20 calls for a combination of elements including, *inter alia*, "an elongate body defining ... a lumen extending from the proximal portion to an aperture in the distal portion," "a steering wire," "a stiffening member," "an anchoring member ...

secured to the distal portion of the steering wire and the distal end of the stiffening member,” “an anti-tear device” and “a handle ... adapted pull the steering wire relative to the elongate body.” The combination defined by claim 21 includes, *inter alia*, the elements recited in independent claim 20.

The cited references fail to teach or suggest the claimed combinations. For example, the Office Action has taken the position that it would have been obvious to replace the Ebling contractile wire with the steering wire and handle arrangement disclosed in the Savage '725 patent. Even assuming for the sake of argument that this position is reasonable, the combined teachings of the references would not have resulted in an apparatus that also included an “anti-tear device.” More specifically, it would not have been obvious to connect one or more of the additional Ebling connecting members 24a (the purported “anti-tear device” in the Section 102 rejection) to a Savage steering wire. The only disclosed purpose for the Ebling connecting members 24a is connecting the support member 22a to the device that bends the flexible body, i.e. the Ebling contractile wire 20a. As each of the Savage steering wires is only secured, at its distal end, to a **single** device (i.e. an anchoring ring or a tip), there is simply no reason to use additional connecting members 24a to secure the steering wire to the support member 22a.

As the cited references fail to teach or suggest the combination of elements recited in independent claim 20, whether viewed alone or in combination, applicant respectfully submits that the rejection of claims 20 and 21 under 35 U.S.C. § 103 should be withdrawn.

#### **IV. NEWLY PRESENTED CLAIMS 69-75**

Newly presented independent claim 69 calls for a combination of elements comprising “an elongate body,” “a steering wire,” “an anchoring member associated with the distal portion of the elongate body and secured to the steering wire,” “a stiffening member associated with the distal portion of the elongate body and defining a distal end, the distal end of the stiffening member being directly secured to the anchoring member” and “a substantially tubular member, secured to the stiffening member,

defining a wall thickness and a continuous length in a direction parallel to the longitudinal axis that is substantially greater than the wall thickness.” The cited references fail to teach or suggest such a combination. For example, the Ebling additional connecting members 24a are not “a substantially tubular member, secured to the stiffening member, defining a wall thickness and a continuous length in a direction parallel to the longitudinal axis that is substantially greater than the wall thickness,” and the Savage ‘725 patent fails to remedy this deficiency. Claims 69-75 are, therefore, patentable thereover.

## **V. CLOSING REMARKS**

In view of the foregoing, it is respectfully submitted that the claims in the application are in condition for allowance. Reexamination and reconsideration of the application, as amended, are respectfully requested. Allowance of the claims at an early date is courteously solicited.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is respectfully requested to call applicant’s undersigned representative at (310) 563-1458 to discuss the steps necessary for placing the application in condition for allowance.

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 50-0638. Should such fees be associated with an extension of time, applicant respectfully requests that this paper be considered a petition therefor.

Respectfully submitted,

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Date

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